

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.3468/07
Smt. Sunita Devi & Anr.
Vs.
Commissioner Workmen Compensation
Tribunal & Ors.

10.5.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri D.D. Khandelwal for petitioners.

Heard learned counsel for the
petitioners.

In this writ petition challenge
has been made to order dated 21.2.2007
passed by Workmen Compensation, Tribunal
Sawaimadhopur whereunder the amount of
compensation in the sum of Rs.4,45,338/-
awarded pursuant to the order passed by
the Assistant Engineer, JVVNL has been
ordered to be divided amongst wife,

mother, daughter and two minor brothers and the deceased Jagdish Singh.

Learned counsel for the petitioner has relied on Section 8 of the Hindu Succession Act, 1956 and argued that according to that provision, the property of a male Hindu dying intestate shall devolve firstly, upon the heirs being the relatives specified in class I of the Schedule and secondly, if there is no heirs of class I, then upon the heirs, being the relatives specified in class II of the Schedule. It was argued that class I of the relatives contained in the Schedule to the aforesaid Act does not incorporate the brothers, therefore, the direction to keep a sum of Rs.1,00,000/- each deposited in fixed deposits for two minor brothers could not have been made

because they do not come in the category of class I relatives, rather they come in the category of class II relatives. It is only in the absence of any relative of class I category that the property of a male Hindu dying intestate shall devolve upon the relatives specified in class II.

Having heard the learned counsel for the petitioner I am of the view that the petitioner ought to first raise this issue before the Workmen Compensation Commissioner where the petitioner shall make an application seeking review and reconsideration of that order. If such application is made, the Workmen Compensation Commissioner shall upon hearing all concerned duly take into consideration the aforesaid law and any other law that may be cited by the

parties before him and shall pass an appropriate order.

With these observations, the writ petition is disposed of.

(Mohammad Rafiq), J.

Rs/ -